

## Rye City Planning Commission Minutes

February 10, 2004

1   **PRESENT:**

2   Barbara Cummings, Chair  
3   Martha Monserrate, Vice-Chair  
4   H. Gerry Seitz  
5   Hugh Greechan  
6   Nick Everett  
7   Peter Larr  
8   Patrick McGunagle  
9

10   **ABSENT:**

11   None  
12

13   **ALSO PRESENT:**

14   Christian K. Miller, AICP, City Planner  
15

16   **I.       HEARINGS**  
17

18   **1.       Rye Nature Center**  
19

20   Chair Cummings read the public notice. The City Planner noted for the record that the  
21   applicant submitted an affidavit indicating its compliance with the City's public  
22   notification requirements.  
23

24   Rex James (applicant's representative) stated that he was the contractor responsible for  
25   the design of the proposed atrium/sunroom addition to the City's Rye Nature Center. Mr.  
26   James indicated that the new atrium would be used as an activity room for programs at  
27   the Nature Center. The structure would consist of glass and an aluminum frame. It  
28   would be approximately 21 feet by 24 feet in area. Mr. James indicated that the  
29   proposed sunroom addition would replace and enlarge an existing sunroom constructed  
30   in 1980. Mr. James stated that the sunroom addition would be used for summer  
31   educational activities. He noted that the proposed addition would be within a 100-foot  
32   wetland buffer and that a wetland mitigation plan had been prepared by Richard  
33   Horsman who is a member of the City's Conservation Commission/Advisory Council  
34   (CC/AC).  
35

36   Bob Clyatt (Member of the Friends of Rye Nature Center) noted that his organization  
37   was funding the construction of the addition and that it would be giving the addition to  
38   the City of Rye upon project completion. Mr. Clyatt provided an overview of the  
39   proposed mitigation plan noting that it would involve the removal of 770 linear feet of  
40   trails that currently extend through wetland areas. Mr. Clyatt noted that wetland plants  
41   would be provided within wetland areas and that existing invasive plant species would  
42   be removed. Mr. Clyatt stated that a wetland demonstration area consisting of wetland  
43   plantings is also proposed and would be used to educate the public on how to care for  
44   wetland areas.  
45

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1 There was no public comment.

2  
3 On a motion made by Peter Larr, seconded by Nick Everett and carried by the following  
4 vote:

5  
6 AYES: Barbara Cummings, Hugh Greechan, H. Gerry Seitz, Martha Monserrate,  
7 Patrick McGunagle, Nick Everett, Peter Larr

8 NAYS: None

9 RECUSED: None

10 ABSENT: None

11  
12 the Planning Commission took the following action:

13  
14 **ACTION:** The Planning Commission closed the public hearing on wetland permit  
15 application number WP147.

### 16 17 **2. Rose Residence**

18  
19 Chair Cummings read the public notice. The City Planner noted for the record that the  
20 applicant submitted an affidavit indicating its compliance with the City's public  
21 notification requirements.

22  
23 Don Elmendorf (applicant's consultant) noted that he had prepared a remedial action  
24 plan for the Planning Commission's consideration to remove woodchips from an existing  
25 wetland area. Mr. Elmendorf noted that the woodchips would be removed manually but  
26 that some mechanized equipment would also be used in the removal process. Mr.  
27 Elmendorf noted that the woodchips would be reduced to a level of the pre-existing  
28 wetland.

29  
30 Jeff Main (member of the public) stated that the Planning Commission should consider  
31 measures to prevent invasive plant species from taking over the remediated area. Mr.  
32 Main noted that his experience with remediation plans in his hometown in Connecticut  
33 resulted in many restored wetland areas being overcome by invasive species.

34  
35 Mr. Elmendorf responded that currently the site does not have any significant ground  
36 cover and that it will be unlikely that it will support the growth of invasive plant species.

37  
38 A resident of 36 Hunt Place stated that the walking paths on the applicant's property  
39 were an aesthetic enhancement to the area. The resident stated that the woodchip  
40 paths should be allowed to remain. The Planning Commission responded that the  
41 placement of the woodchips in the wetlands was a violation and that it constituted filling  
42 a wetland. The Commission noted that it is seeking to have the woodchips removed  
43 from the wetland consistent with the requirements of the City's Wetland Law.

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On a motion made by Peter Larr, seconded by Patrick McGunagle and carried by the following vote:

AYES: Barbara Cummings, Hugh Greechan, H. Gerry Seitz, Martha Monserrate, Nick Everett, Peter Larr, Patrick McGunagle

NAYS: None

RECUSED: None

ABSENT: None

the Planning Commission took the following action:

**ACTION:** The Planning Commission closed the public hearing on wetland permit application number WP138.

### 3. Tomczyk Residence

Chair Cummings read the public notice. The City Planner noted for the record that the applicant submitted an affidavit indicating its compliance with the City's public notification requirements.

Paul Jaehnig (applicant's landscape architect) provided an overview of the application noting that it involved the demolition and removal of an existing single-family dwelling located approximately 41 feet from an existing wetland on the property. Mr. Jaehnig noted that a new residence is proposed and that it would be located outside of the 100-foot wetland buffer. All existing pavement and areas occupied by the residence would be returned to lawn.

Mr. Jaehing noted that a mitigation plan was also prepared that would provide for appropriate plants and shrubs around the perimeter of the existing wetland located in the southwest corner of the site. Mr. Jaehnig stated that the plan had been revised at the request of the Planning Commission and City Engineering Department to include catch basins to address a pre-existing drainage problem in the southeast corner of the property. Mr. Jaehnig stated that the proposed drainage measures should address the accumulation of water in this location along Forest Avenue and the adjacent sidewalk area.

There were no public comments.

On a motion made by Peter Larr, seconded by Nick Everett and carried by the following vote:

AYES: Barbara Cummings, Hugh Greechan, H. Gerry Seitz, Martha Monserrate, Patrick McGunagle, Nick Everett, Peter Larr

NAYS: None

RECUSED: None

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1 ABSENT: None

2  
3 the Planning Commission took the following action:

4  
5 **ACTION:** The Planning Commission closed the public hearing on wetland permit  
6 application number WP142.

### 7 8 **II. ITEMS PENDING ACTION**

#### 9 10 **1. Edith Read Sanctuary**

11  
12 The Planning Commission welcomed the representatives from Westchester County to  
13 preliminarily discuss their proposal to extend a roadway through Edith Read Sanctuary  
14 to connect a new access drive to Manursing Way. The Planning Commission noted that  
15 it was unfortunate that the project was initiated without all local approvals but looked  
16 forward to working with the County and thanked them for appearing before the Planning  
17 Commission. Jack Robbins (Westchester County Deputy Commissioner of Parks and  
18 Conservation) apologized for starting the construction of the roadway. He noted that  
19 there were gaps in communication among various Westchester County Departments  
20 that resulted in the project moving forward.

21  
22 Mr. Robbins stated that the proposal involves extending a gravel access drive through  
23 Edith Read Sanctuary from Manursing Way. Mr. Robbins stated that this proposal has  
24 been in existence for many years extending through three county executive  
25 administrations. Mr. Robbins noted in the proposed project installing a gravel driveway  
26 that would only be open from May to September. He noted that this driveway alignment  
27 would extend over an area that's an existing trail to minimize tree loss and site  
28 disturbance.

29  
30 Mr. Robbins stated that the County has been working on the project with the Friends of  
31 Read and County legislative representative George Latimer over the past few years.  
32 The driveway is necessary to allow Friends of Read and birdwatchers access directly to  
33 the sanctuary rather than having to access the site through adjacent Playland Park. Mr.  
34 Robbins noted that the driveway would be limited to passenger vehicles. Trucks, buses,  
35 and other large vehicles would be required to continue to use the Playland Park access  
36 to Edith Read. Mr. Robbins stated that the use of the driveway would be low volume  
37 and would be primarily used by birdwatchers for the spring and fall migration seasons.

38  
39 Mr. Robbins provided an overview of the existing parking areas on the sanctuary and  
40 indicated that none of them would be modified or expanded to accommodate the new  
41 driveway. Mr. Robbins also noted that there is an auxiliary parking area that is off  
42 Manursing Way that is opened during the July 4<sup>th</sup> and following July weekend.

43  
44 Mr. Robbins stated that the County had conducted a coordinated review under SEQRA  
45 and that a negative declaration had been prepared. Mr. Robbins suspected that the

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1 public noticed the project once a chipper arrived at the site. Mr. Robbins noted that the  
2 chipper is used by Westchester County, which during a typical winter can see over  
3 1,000 trees fall on properties it maintains. Mr. Robbins stated that the project is a small  
4 project that is being handled within existing department budgets. He noted that it was  
5 not a capital project.

6  
7 Mr. Robbins stated that he had been contacted by the City Planner and that a  
8 representative from his office is preparing the appropriate application forms for the  
9 Planning Commission's consideration. He stated that he expected to submit those forms  
10 shortly.

11  
12 The Planning Commission appreciated Mr. Robbins appearing on short notice for the  
13 meeting. The Commission noted that it did not have complete information regarding the  
14 project but suggested that Mr. Robbins and the County address in its application forms  
15 the necessity for the project and what alternatives to the proposed project were  
16 considered. The Planning Commission added that the consideration of alternatives that  
17 avoid wetland impacts are required by the City Wetlands Law.

18  
19 Jeff Main (Westchester County Parks Representative) stated that the only other access  
20 option was to continue to access Edith Read Sanctuary through the adjacent Playland  
21 Park.

22  
23 The Planning Commission recommended that Westchester County evaluate the  
24 appropriateness of the proposed access drive from a site distance and traffic safety  
25 perspective. The Commission noted that the County should be prepared to discuss how  
26 it intends to secure the driveway after hours and to ensure that there will not be parking  
27 on Manursing Way.

### **2. Discussion of 2004 Commission Planning Program**

28  
29  
30  
31 Peter Larr provided an update of the status of his discussions with various community  
32 representatives and City Staff regarding a planning study for 2004. Mr. Larr noted that  
33 based on discussions with the City Planner and other community members that it was  
34 felt that the City should focus its energies on addressing the issues of the City's  
35 neighborhood business districts. This study, though not well defined at this time, would  
36 consider possible changes to enhance the regulation of the business districts as well as  
37 seek to implement other improvements. The number of neighborhood business districts  
38 that would be studied has not been established.

39  
40 Mr. Larr proposed that a sub-committee of the Planning Commission be established to  
41 review this issue and that additional members be added as necessary. The total sub-  
42 committee membership should not exceed nine.

43  
44 Mr. Larr stated that it was his recommendation that the sub-committee be formed as  
45 quickly as possible and that it conduct its first meeting to more specifically define the

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1 scope of the study and the neighborhood business districts that would be analyzed. In  
2 terms of Council involvement it was agreed that the Planning Commission has the  
3 authority under the City Charter to conduct public hearings on matters that it deems  
4 appropriate and that there was no need for the City Council to officially approve of the  
5 creation of the sub-committee. Mr. Larr noted that the Council should be kept advised of  
6 the sub-committee's work and certainly would have to be more involved if any specific  
7 recommendations were proposed requiring City Council approval.

8  
9 The City Planner added that the business district study would also be broad enough to  
10 address other issues raised by the Commission such as the need for affordable housing  
11 and other aesthetic enhancements to areas of the City. Patrick McGunagle added that  
12 the Human Rights Commission was seeking funding to conduct a needs study for  
13 affordable housing in the community. He stated that he expected the study to be  
14 completed within the first quarter of 2004 and that this information could assist the sub-  
15 committee.

16  
17 The Commission agreed to establish the sub-committee and that Peter Larr would serve  
18 as chair. The Planning Commission noted that it was important that as the study moved  
19 forward, it seek input from representatives of the business community and others  
20 regarding any specific recommendations.

### **3. Review of the 2003 Planning Commission and Department Annual Report**

21  
22 The Planning Commission reviewed and discussed the 2003 Planning Commission and  
23 Department Annual Report.

24  
25 On a motion made by Peter Larr, seconded by Patrick McGunagle and carried by the  
26 following vote:

27  
28 AYES: Barbara Cummings, Hugh Greechan, H. Gerry Seitz, Martha Monserrate,  
29 Patrick McGunagle, Nick Everett, Peter Larr

30  
31 NAYS: None

32  
33 RECUSED: None

34  
35 ABSENT: None

36  
37 the Planning Commission took the following action:

38 **ACTION:** The Planning Commission approved as corrected the 2003 Planning  
39 Commission and Department Annual Report.

### **4. Rose Residence**

40  
41 The Planning Commission reviewed the draft resolution of approval. The Planning  
42 Commission requested that the resolution be revised to include a condition that the  
43 wetland restoration be supervised by the City Naturalist. Chantal Detlefs (City  
44  
45

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1 Naturalist) agreed to supervise the remediation process noting that it would likely take  
2 only a day or two to remove the material from the wetland.

3  
4 The Planning Commission noted some concern that the remediation report did not more  
5 specifically identify the location of where the material will be removed. The City Planner  
6 and Mr. Elmendorf responded that the report is intended to be general and that the  
7 exact quantities and locations of woodchip removal would depend upon field conditions  
8 and visual inspections. The City Planner added given the extent of discretion required  
9 by the Planner that it is important to have the remediation supervised by a City  
10 representative.

11  
12 The Planning Commission discussed the comments raised in the public hearing  
13 regarding the request to leave woodchips in their current condition and addressing  
14 concerns regarding the propagation of invasive species upon project completion. The  
15 Planning Commission noted it could not permit the woodchips to remain in the wetland  
16 since this was a violation of the City's Wetlands Law. Regarding invasive species the  
17 City Naturalist suggested that it is a highly shaded area and that in her judgment the  
18 area will not be susceptible to invasive species after the woodchips are removed.

19  
20 Debbie Jurs (applicant's niece) noted that her uncle would complete the remediation  
21 plan as proposed but questioned what measures the City was taking to stop the  
22 continued encroachment of wetlands onto her uncle's property. She noted that she has  
23 seen the extent of wetland expand considerably over the past few years.

24  
25 The City Planner responded that the City recently completed an intermunicipal study  
26 with the adjacent Town/Village of Harrison to evaluate flooding conditions in the Beaver  
27 Swamp Brook. The City Planner suggested that the area within the vicinity of Hunt  
28 Place is particularly problematic because the study showed that it is susceptible to  
29 flooding due to the level topography and a low stream profile that extends for thousands  
30 of feet in this location of Beaver Swamp Brook. The City Planner suggested that the  
31 solutions to this flooding are expensive and complicated and may involve property  
32 acquisition in multiple municipal jurisdictions. Furthermore, he stated that some of the  
33 prior maintenance activities such as routine dredging are generally considered  
34 inappropriate activities by current environmental standards. The City Planner added that  
35 these activities were common in the past, though they were only quick fixes, but have  
36 not been conducted in many years due to the number of environmental permits that are  
37 required.

38  
39 On a motion made by Martha Monserrate, seconded by Patrick McGunagle and carried  
40 by the following vote:

41  
42 AYES: H. Gerry Seitz, Nick Everett, Barbara Cummings, Hugh Greechan, Peter  
43 Larr, Martha Monserrate, Patrick McGunagle

44 NAYS: None

45 RECUSED: None

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1 ABSENT: None

2  
3 the Planning Commission took the following action:

4  
5 **ACTION:** The Planning Commission conditionally approved wetland permit  
6 application number WP138.

### **5. Rye Nature Center**

7  
8  
9  
10 The Planning Commission discussed the draft resolution of approval and the conditions  
11 requiring the applicant to post performance security in connection with the proposed  
12 landscape plantings. The Planning Commission agreed that this condition was not  
13 appropriate given the applicant's substantial mitigation plan. The City Planner added  
14 that the planting of landscape material could be removed from the mitigation plan and  
15 still substantially exceed the Planning Commission's requirements for mitigation. The  
16 City Planner added that the proposed project involved less than 400 square feet of  
17 disturbance and that it includes a variety of mitigation plan components including the  
18 removal of trails and the installation of an educational wetland enhancement area.

19  
20 The Planning Commission agreed that the posting of security was not necessary but  
21 that it would include a condition in the resolution requiring the applicant to replace any  
22 plant material for a period of up to two years after installation in the event that it dies or  
23 is in poor health.

24  
25 On a motion made by Peter Larr, seconded by Martha Monserrate and carried by the  
26 following vote:

27  
28 **AYES:** Barbara Cummings, Hugh Greechan, H. Gerry Seitz, Martha Monserrate,  
29 Patrick McGunagle, Nick Everett, Peter Larr

30 **NAYS:** None

31 **RECUSED:** None

32 **ABSENT:** None

33  
34 the Planning Commission took the following action:

35  
36 **ACTION:** The Planning Commission approved wetland permit application number  
37 WP147.

### **6. Tomczyk Residence**

38  
39  
40  
41 The Planning Commission discussed the applicant's proposed drainage plan to address  
42 storm water ponding along the southeast corner of the property. The Commission  
43 discussed possible revisions to the plan to eliminate the proposed number of catch  
44 basins and potentially improve water quality treatment measures. The Commission



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1 agreed that the drainage plan was acceptable but that additional revisions subject to the  
2 City Engineer's approval may be necessary.

3  
4 The Planning Commission discussed with the applicant the status of its discussions with  
5 the adjacent neighbor to establish a driveway access easement across the applicant's  
6 property. The Planning Commission confirmed with the adjacent neighbor, Mrs. Bancel,  
7 that discussions by attorneys for her and the applicant were underway to establish such  
8 an easement.

9  
10 On a motion made by Peter Larr, seconded by Barbara Cummings and carried by the  
11 following vote:

12  
13 AYES: Barbara Cummings, Hugh Greechan, H. Gerry Seitz, Martha Monserrate,  
14 Patrick McGunagle, Nick Everett, Peter Larr

15 NAYS: None

16 RECUSED: None

17 ABSENT: None

18  
19 the Planning Commission took the following action:

20  
21 **ACTION:** The Planning Commission conditionally approved wetland permit  
22 application number WP142.

### **7. Rye Subaru**

24  
25  
26 The Planning Commission discussed the revised lighting plan. Rex Gedney (applicant's  
27 architect) noted that the previously proposed lighting plan included seven poles  
28 approximately 20 feet in height. Mr. Gedney noted that a revised plan included four  
29 poles, one of which was 15 feet in height and the remaining three were 20 feet in height.  
30 Mr. Gedney presented at the meeting further revisions to the lighting plan, which  
31 included 5 poles with a mounting height of 15 feet. Mr. Gedney noted that each fixture  
32 would have a bulb of 250 watts, which would provide an average lighting intensity for  
33 the site of approximately 3.34 foot-candles. The Planning Commission found the revised  
34 lighting plan acceptable.

35  
36 The Planning Commission discussed the draft resolution of approval including the  
37 conditions restricting the loading and unloading of vehicles associated with the project  
38 site. The Commission noted concerns with the language that was proposed and  
39 requested that it be revised. The City Planner indicated that he could present revised  
40 language that more clearly defines the conditions under which loading and unloading  
41 associated with multi-vehicle carriers would be deemed inappropriate. The City Planner  
42 noted that he would provide the revised language for the Planning Commission's  
43 consideration at its next meeting on February 24<sup>th</sup>.

### **8. United Towing and Recovery, Inc.**

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1  
2 The Planning Commission noted the receipt of a memorandum from Corporation  
3 Counsel regarding the applicant's site plan. The site plan proposes structures within the  
4 Nursery Lane right-of-way, which was designated on the City's official map in 1959. The  
5 Planning Commission advised the applicant that based on the advice of Corporation  
6 Counsel structures, including the proposed fence, are not permitted within the  
7 designated right-of-way. The Planning Commission noted that the applicant should  
8 revise its plan to eliminate structures from the right-of-way or seek appropriate relief  
9 from the City Council, which established the Official Map. The Planning Commission  
10 noted that the applicant could contact Corporation Counsel to discuss his opinion in  
11 more detail.

12  
13 The Planning Commission requested the City Planner to obtain comments from the  
14 City's Police and Fire Departments regarding the proposed application. The Planning  
15 Commission specifically requested that their opinion address the impact the project may  
16 have on vehicle access to the subject site and area properties.

17  
18 Frank Allegretti (applicant's attorney) objected to the Planning Commission's  
19 determination that fences and other structures were not permitted within the designated  
20 right-of-way. Mr. Allegretti requested that the Planning Commission adopt a resolution  
21 of denial so that he could challenge the Commission's determination. The City Planner  
22 responded that it was his understanding that the Commission may not be able to deny  
23 the application until a public hearing was held. The Planning Commission noted that it  
24 was not prepared to schedule a public hearing until it had received a correspondence  
25 from the City's emergency service providers.

26  
27 The Planning Commission noted that it would encourage the Police and Fire  
28 Departments to provide responses in advance of their next meeting and that it would  
29 consider scheduling a public hearing at its February 24<sup>th</sup> meeting.

### **9. Hancock Residence**

30  
31  
32  
33 David Mooney (applicant's architect) provided an overview of the application noting that  
34 it involved a wetland permit to maintain a temporary dock for a property located at 315  
35 Brevoort Lane. Mr. Mooney noted that the Planning Commission previously approved a  
36 fixed dock for the same property in March 2003. Mr. Mooney indicated that his client  
37 was prepared to extinguish the previous approval provided that the temporary dock and  
38 concrete structure was permitted.

39  
40 The City Planner added that his office was contacted by a neighbor regarding the  
41 installation of an approximately 3 foot by 4 foot concrete structure that was used for the  
42 purpose of establishing a temporary dock. The City Planner noted that he contacted Mr.  
43 Mooney and advised him that the structure would either need to be removed or  
44 approved by the Planning Commission. The City Planner noted that the applicant has  
45 also submitted a request for an extension of time in connection with the previously

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1 approved fixed dock. The City Planner noted that the application does not expire until  
2 March 2004 and that depending on the outcome of the pending application the request  
3 for an extension of time may not be relevant.  
4

5 The Planning Commission noted the receipt of correspondence from the CC/AC, which  
6 supported the temporary dock as opposed to the previously approved fixed dock.  
7

8 The Planning Commission agreed that it would not conduct a public hearing until after  
9 its next scheduled site walk on March 6, 2004. The Planning Commission noted that it  
10 would set a public hearing at its February 24<sup>th</sup> meeting. The hearing would be held on  
11 March 9<sup>th</sup>. The Planning Commission's next scheduled site walk is on March 6<sup>th</sup>.  
12

### **10. Minutes**

13  
14  
15 The Commission reviewed and approved the minutes of its October 28, 2003 meeting  
16 for Beechwind, the December 9, 2003 meeting, and the January 13, 2004 meeting.